

Minutes of The
Idaho Board of Pharmacy

August 27 & 28, 2003

AmeriTel Inn
Boise, Idaho

Chairman Mike Merrill R.Ph. called the meeting to order at 9:00 A.M. In attendance were Board members Frank Casabonne R.Ph.; Kitty Gurnsey; Dwayne Sheffler R.Ph. and Marilyn Silcock Pharm D. Also in attendance were Richard Markuson, Executive Director; Fred Collings, Senior Investigator; Jan Atkinson, Senior Compliance Officer; Kent Nelson, Deputy Attorney General and Cheri Bush, Deputy Attorney General.

Kitty Gurnsey made a motion for approval of the minutes from the April 16, 2003 Board meeting. Motion seconded by Frank Casabonne. Motion unanimously carried.

Regarding citation #1187 issued to Debra Barton R.Ph.; both Debra Barton and Andrea Kuhner, District Manager for Walgreens presented testimony concerning the medication error to Autumn Ralston. The parents read a prepared statement and submitted it for inclusion in the Board record. Frank Casabonne voiced his concern for the double drive-up windows that Walgreens and several other stores are using and urged the Board to review their feasibility in relationship to effectiveness of counseling and pharmacy staffing issues. The Board also directed staff to notify the Board of Medicine and the Board of Nursing concerning the recurring problem of pediatric prescriptions written for metoclopramide and the importance of adding a zero before decimals in dosing patients. Frank Casabonne motioned to table the citation until later in the meeting in order for the Board members to have additional time to discuss the matter. Dwayne Sheffler seconded the motion. Motion carried.

Selma Gearhardt appeared before the Board to request reinstatement of her pharmacist license. A motion was made by Dr. Silcock to reinstate her license with the requirement for random UAs every two weeks for the first year and monthly UAs the next year and for UA results to be provided to the Board office. Motion seconded by Kitty Gurnsey. Motion unanimously carried. Kitty Gurnsey motioned to allow Ms. Gearhardt one year following her reinstatement for payment of her fines and costs. Ms. Gearhardt and Board staff should arrange a payment schedule to accomplish the extension. Dr. Silcock seconded the motion. Motion unanimously carried.

Fred Collings and Cheri Bush, Deputy Attorney General presented the Stipulation and Board Order on Randy Shinneman R.Ph. Frank Casabonne motioned to accept Mr. Shinneman's voluntary surrender for a period of six months commencing May 5, 2003, followed by two years of probation. Quarterly reports from Port of Hope or other approved meeting attendance such as AA to be submitted to the Board prior to reinstatement date of November 5, 2003. Costs and attorney fees may be extended for

one year from reinstatement date. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Regarding citation #1357 issued to Morgan Mitchell R.Ph., Dwayne Sheffler made a motion to fine Mr. Mitchell \$100.00 and associated costs of the investigation (costs to be determined) and a written assessment to the Board of all corrective measures Paul's Pharmacy is implementing in order to prevent subsequent errors. Motion seconded by Frank Casabonne. Motion unanimously carried.

Regarding citation #2139 issued to Medicine Man Prairie, Frank Casabonne made a motion to fine the Medicine Man Pharmacy \$100.00. Motion seconded by Dr. Silcock. Motion carried.

Based on clarification from Robert Duke, his application for reciprocity was approved by the Board. Mr. Duke stated that he was actively participating in the practice of pharmacy, as defined by Idaho Statute.

Frank Casabonne motioned to indefinitely suspend the Controlled Substance Registration of Tamla Rencher DDS. Motion seconded by Dr. Silcock. Motion unanimously carried.

Kitty Gurnsey motioned to indefinitely suspend the Controlled Substance Registration of Stephen Graham MD. Motion seconded by Dwayne Sheffler. Motion unanimously carried.

Dr. Silcock motioned to accept the Stipulation and Order for Timothy LaBrosse DDS as written. Motion seconded by Frank Casabonne. Motion unanimously carried.

Attorney Sam Hoagland and Andrew T. Tener, V.P. Operations and Regulatory Affairs for RxElite presented additional information regarding the Board staff's denial of Nephron Pharmaceutical's Wholesale application. The Board referred the additional information to Board attorney Kent Nelson for review of applicable statutes and rules pertaining to Nephron's request for licensure at the same location as the existing licensed facility RxElite.

Idaho Primary Care Association, represented by Bill Foxcroft presented information on the Community Health Centers and their involvement with the 340B program. Under this program, Terry Reilly Health Services would retain legal title to the 340B drugs dispensed by a participating contract pharmacy. The system, referred to as the "Ship to, bill to" system may be in conflict with Idaho Code and DEA regulations. The Board referred the matter to Mr. Nelson for his legal opinion regarding this program.

Norco Inc. represented by Troy Walker, requested Board approval allowing Norco's DME facilities to fax customer's written prescriptions from their branch locations (DME facilities) to their pharmacy location in Boise. Board rules as well as federal regulations do not allow the faxing of prescriptions from any location other than from a practitioner's office by the practitioner or practitioner's agent. After further discussion it was

determined that either Norco DME staff or a courier service could deliver written prescriptions taken directly from the patient to the Norco pharmacy to expedite the filling of these prescriptions. Board staff was directed to disseminate this additional information to Norco representatives.

Dr. Silcock motioned to indefinitely revoke the Technician Registration of Autumn Fisher based upon her violations of Idaho Laws and Board Rules. Dwayne Sheffler seconded the motion. Motion unanimously carried.

Regarding citation #1187 issued to Debra Barton R.Ph., Dwayne Sheffler made a motion to fine Ms. Barton \$400.00 and the associated costs of the investigation in the amount of \$200.00. Kitty Gurnsey seconded the motion. Motion unanimously carried. The Board also directed Mr. Markuson to send Dr. Rocco Cifrese a letter reminding him of the errors and suggesting that pediatric prescriptions written for metoclopramide or similar medications are written using a zero before the decimal for additional clarification of that prescription. Board staff was asked to provide a copy of all communications between the Board of Pharmacy and Dr. Cifrese, the Board of Medicine and the Board of Nursing addressing this specific dosing error and the pediatric dosing problem the Board is seeing as well as a copy of the disciplinary letter from Mr. Markuson to Debra Barton.

A motion was made by Frank Casabonne to accept the Stipulation and Order on Sara Cummings with a clarification on random UA requirements to every two weeks. Motion seconded by Kitty Gurnsey. Motion unanimously carried.

Meeting adjourned.

August 28, 2003

Dean Joe Steiner, ISU College of Pharmacy and pharmacists Jim Troemel and Larry Munkelt presented a telepharmacy pilot project aimed at addressing the pharmacist shortage, improving patient safety and increasing the access to quality pharmacy services being provided to patients living in rural Idaho. The North Idaho Rural Health Consortium (NIRHC) and Saint Alphonsus Regional Medical Center (SARMC) have agreed to develop such a telepharmacy project that would initially offer services to two Critical Access Hospitals located in the northern and southwest regions of Idaho. The Board members referred the proposal to Board legal counsel Kent Nelson for additional review and recommendations.

Mark Johnson, Division Pharmacy Manager for Albertsons, appeared before the Board to request permission to reciprocate his pharmacist license from his reciprocated license in Nevada. Mr. Nelson advised the Board that according to Section 54-1723(f) the applicant need only provide proof of initial licensure by examination and proof that such license has not been suspended, revoked, cancelled or otherwise restricted for any reason except nonrenewal or the failure to obtain required CE credits. If Mr. Johnson merely failed to renew his Virginia license, he would be eligible to reciprocate off of his reciprocated

license. The Board approved Mr. Johnson's request and directed him to provide Board staff with verification of his Virginia licensure and proof that the license was in good standing when he let it expire. He was also directed to provide affidavits from Nevada pharmacies verifying that he had actively practiced pharmacy in the state of Nevada within the last year.

In order to assure that pharmacies are under the direction of knowledgeable and qualified individuals, Jan Atkinson, Senior Compliance Officer, requested that the Board members consider her proposal for Idaho pharmacies to be required to have their pharmacy district managers registered as pharmacists in Idaho prior their management of any Idaho pharmacies. Board members directed Mr. Nelson to review the possibility of making it a requirement for the pharmacy registration or whether it would require a change to existing rules.

Julie Eisele, Pharm. D., petitioned the Board to grant an extension of the one-year time limit or to waive the 1500 internship hours requirement for her Idaho Pharmacy Licensure application. Motion by Dwayne Sheffler to waive the 1500 internship hours' requirement and consider her internship requirement fulfilled by her documented pharmacy experience. Motion seconded by Frank Casabonne. Motion carried.

Regarding Craig Haslam's request for Board consideration in increasing the technician to pharmacist ratio from 2:1 to 3:1 with the additional requirement that one of the technicians be certified, the Board unanimously denied his request with the following explanation. Mr. Markuson was directed to send Mr. Haslam a letter stating that the Board has considered the technician to pharmacist ratio at length and after numerous discussions and input from pharmacists throughout the state the Board members feel that it would only contribute to the day-to-day pressures and could also create an unsafe atmosphere in an already hectic routine.

The Board directed Mr. Markuson to notify Wal-Mart's Pharmacy Division that pursuant to Section 54-1704 of the Idaho Code, the Wal-Mart pharmacists, and all pharmacists licensed in the state of Idaho are authorized to administer the Flu-Mist vaccine within their scope of practice. According to Board Rule 165 there must also be a written, signed agreement between the pharmacist or group of pharmacists and a prescribing practitioner or group of prescribing practitioners that provides for the collaborative practice of patients. (Ordering the Flu-Mist vaccine for the patients)

Motion by Kitty Gurnsey to accept the proposed changes to Rule 156 that allow for the return of medications from Assisted Living Facilities under specified conditions. Motion seconded by Frank Casabonne. Motion unanimously carried. The Board also asked Mr. Markuson to convey to the legislature that the consensus of this Board is that they are being required to take action on this matter and are not completely comfortable with this rule or the oversight it is able to provide without more regulatory intervention. The Board members feel the overall protection and safety of the public is not necessarily taking precedent over the monetary considerations the legislature is attempting to address with this resolution. Mr. Markuson was also urged to remind the committee members that their

family members or they themselves may be receiving the very medications that they are mandating the return of and the concern over how these medications will be handled and stored is a very real one.

Dr. Silcock made a motion to accept the proposed changes to Rule 152 that address the library requirements for pharmacies. Dwayne Sheffler seconded the motion. Motion unanimously carried.

Regarding the Board of Pharmacy's election of officers, Kitty Gurnsey nominated Marilyn Silcock for the position of Chairman and Frank Casabonne for the position of Vice-Chairman. Dwayne Sheffler seconded both nominations. Nominations unanimously accepted.

The next meeting of the Board of Pharmacy is scheduled for November 7, 2003 in Boise, Idaho.

Dr. Silcock motioned to adjourn the meeting. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Minutes of this meeting respectfully submitted by Jan Atkinson.